

BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

31ST OCTOBER 2024

LICENSING ACT 2003

APPLICATION FOR VARIATION OF A PREMISES LICENCE

COFFEE N CLAY, 5 STATION ROAD, HAGLEY, WORCESTERSHIRE, DY9 0NU

PUBLIC HEARING	
Director:	Head of Worcestershire Regulatory Services
Contact Officer:	Sarah Royall Technical Officer (Licensing) enquiries@worcsregservices.gov.uk
Ward(s) affected:	Hagley East
Appendices:	Appendix 1 – Application Form Appendix 2 – Existing Licence Appendix 3 – Representations from other parties

1. PURPOSE OF REPORT

- 1.1. To consider and determine an application for variation of the premises licence in respect of the premises below:

**Coffee N Clay
5 Station Road
Hagley
Worcestershire
DY9 0NU**

- 1.2. A copy of the application is attached at **Appendix 1**.
- 1.3. A copy of the existing licence is attached at **Appendix 2**.

2. BACKGROUND

2.1. On 22 May 2024 an application was received from Miss Ruth Scattergood for variation of the premises licence in respect of

**Coffee N Clay
5 Station Road
Hagley
Worcestershire
DY9 0NU**

2.2. The application contained all the requisite documentation including the fee.

2.3. The application was submitted on the 20th May 2024, there was an initial delay as the application was not advertised in accordance with the legislation.

2.4. It can be confirmed that the application has now been advertised in accordance with the requirements of the Licensing Act 2003 and associated regulations and that the application has also been served on all responsible authorities.

2.5. The applicant is applying for the following variations to their existing licence.

2.6. The current licence authorises the sale of alcohol from 12:00 hours until 17:00 hours Mondays to Tuesdays, 12:00 hours until 22:00 hours Thursdays to Saturdays and 12:00 hours to 15:00 hours on Sundays.

2.7. The proposed variations are:

- To extend the permitted hours for the sale of alcohol from 17:00 hours until 21:00 hours on Mondays, 17:00 hours until 22:00 hours on Tuesdays, 15:00 hours until 21:00 hours on Sundays and the addition of Wednesdays from 12:00 hours until 22:00 hours.
- To permit the playing of live music at the premises between 18:00 hours and 22:00 hours Thursdays to Sundays.

2.8. Members should note that as this application relates to a premises that is already licensed for the sale of alcohol for consumption on the premises, the provisions of paragraph 12A of Schedule 1 and section 177A of the Licensing Act 2003 apply in respect of live and recorded music.

2.9. The result of these provisions is that the performance of live music and the playing of recorded music is not to be regarded as the provision of regulated entertainment provided that:

- The music takes place within the hours of 8am to 11pm
- The music is performed or played in front of an audience not exceeding 500 people (where the music is amplified)

- At the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on those premises.

2.10. Section 177A(2) of the Licensing Act 2003 also means that where live or recorded music is provided in accordance with the above requirements, any licence conditions that relate to live or recorded music do not have effect.

2.11. This means that should Members grant the requested variation to increase the permitted hours for the sale of alcohol, any conditions that are attached that related to live and recorded music will not have effect in the circumstances described above.

2.12. Members should also note that if they decide to refuse the variation application, then live and recorded music could still be provided at the premises in accordance with paragraph 12A of Schedule 1 and section 177A of the Licensing Act 2003, provided the required pre-conditions are met.

3. REPRESENTATIONS

RESPONSIBLE AUTHORITIES

3.1. The application has been forwarded to all responsible authorities prescribed under the Licensing Act 2003. No representations have been received from any of these responsible authorities.

OTHER PERSONS

3.2. 15 valid representations have been received from other persons relating to concerns for the potential for public nuisance and crime and disorder. Representations have also been received highlighting concerns regarding the protection of children from harm and public safety. A copy of these representations are attached at **Appendix 3**.

3.3. Some of the representations also make reference to parking issues associated with the application. Members need to be reminded that parking matters are not considered valid representations under the four licensing objectives outlined in the legislation, and would normally be considered as part of any planning application.

3.4. Representations received referring to untidy land are not considered valid representations under the four licensing objectives outlined in the legislation, and would normally be investigated by planning enforcement.

3.5. Furthermore, references are also made relating to the premises been located in a conservation area and the impact on local planning policies, which cannot be considered as a valid representation that is relevant to the licensing objectives.

3.6. One of the representations contains requests for a large number of additional assessments and surveys to be conducted by the licensing authority before determining the application.

The requested assessments and surveys are not required to be undertaken by the licensing authority and in some cases the authority would be acting outside of its legal powers if they carried out, or required the applicant to carry out, the requested assessments / surveys.

- 3.7. The application must be determined on the basis of the content of the operating schedule, having considered the relevant representations received and any oral submissions made during the Sub-Committee hearing.

4. LOCAL POLICY CONSIDERATIONS

- 4.1. The Sub-Committee should have regard to the Council's Statement of Licensing Policy under the Licensing Act 2003.
- 4.2. The Council's Statement of Licensing Policy is available to download from the Council's website or to request a hard copy, contact Worcestershire Regulatory Services on 01905 822799 or email enquiries@worcsregservices.gov.uk

5. LEGAL IMPLICATIONS

- 5.1. The Sub-Committee is obliged to determine this application with a view to the promotion of the licensing objectives which are:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 5.2. In making its decision, the Sub-Committee is also obliged to have regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
- 5.3. The Sub-Committee must also have regard to the representations made and the evidence it hears.
- 5.4. The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
 - (a) Grant the application as requested
 - (b) Modify the conditions of the licence, by altering or omitting or adding to them.
 - (c) Reject the application in whole or in part.
- 5.5. The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

- 5.6. All parties to the hearing will be notified of the Sub-Committee's decision in writing within five working days of the conclusion of the hearing.
- 5.7. Any party aggrieved by a decision taken by the Sub-Committee may appeal against the decision to a Magistrates' Court within 21 days of being notified of the decision in writing.
- 5.8. The hearing should be conducted in accordance with the agreed procedure.

6. FOR DECISION

- 6.1. The Sub-Committee must consider and determine the application.